

PROVIDING FOR ADDITIONAL SECURITY IN STATES'
IDENTIFICATION (PASS ID) ACT OF 2009

TITLE II--IMPROVED SECURITY FOR DRIVERS' LICENSES AND PERSONAL IDENTIFICATION CARDS

SEC. 201. DEFINITIONS.

In this title, the following definitions apply:

(1) Driver's license.--The term ``driver's license'' means a motor vehicle operator's license, as defined in section 30301 of title 49, United States Code.

(2) Identification card.--The term ``identification card'' means a personal identification card, as defined in section 1028(d) of title 18, United States Code, issued by a State.

~~(3) Official purpose.--The term ``official purpose'' includes but is not limited to accessing Federal facilities, boarding federally regulated commercial aircraft, entering nuclear power plants, and any other purposes that the Secretary shall determine.~~

(3) Official purpose.--The term ``official purpose'' means, with regards to the presentation of proof of identification,--

(A) securing employment with the Federal Government;

(B) accessing federal facilities that contain mission functions critical to national security;

(C) accessing nuclear power plants; or

(D) boarding federally regulated commercial aircraft.

(4) Secretary.--The term ``Secretary'' means the Secretary of Homeland Security.

(5) State.--The term ``State'' means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, ~~the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.~~

SEC. 202. MINIMUM DOCUMENT REQUIREMENTS AND ISSUANCE STANDARDS FOR FEDERAL RECOGNITION.

(a) Minimum Standards for Federal Use.--

(1) In general.--Beginning ~~3 years after the date of the enactment of this division~~January 1, 2013~~[20XX]~~,:

(A) a Federal agency may not accept, for any official purpose, a driver's license or identification card issued by a State to any

person unless the State is meeting the requirements of this section subject to the provisions of subparagraph (B).;

(B) no person shall be denied boarding a commercial aircraft solely on the basis of failure to present a driver's license or identification card issued pursuant to this subtitle.

(2) State certifications.--The Secretary shall determine whether a State is meeting the requirements of this section based on certifications made by the State to the Secretary. Such certifications shall be made at such times and in such manner as the Secretary, in consultation with the Secretary of Transportation, may prescribe by regulation.

(b) Minimum Document Requirements.--To meet the requirements of this section, a State shall include, at a minimum, the following information and features on each driver's license and identification card issued under this subtitle to a person by the State after January 1, 2013:

- (1) The person's ~~full~~-legal name.
- (2) The person's date of birth.
- (3) The person's gender.
- (4) The person's driver's license or identification card number.
- (5) A digital photograph of the person.
- (6) The person's address of principal residence, except for individuals who:
 - (A) are enrolled in a state address confidentiality program;
 - (B) are entitled to have an address be suppressed under State or Federal law or suppressed by a court order;~~or~~
 - (C) have been subjected to battery, extreme cruelty, domestic violence, dating violence, sexual assault or stalking; or
 - (D) a State determines an exception should be made to protect the safety or security of the applicant.
- (7) The person's signature.
- (8) A combination of security features designed to protect the physical integrity of the document, including the prevention of ~~Physical security features designed to prevent tampering, counterfeiting, or duplication of the document for fraudulent purposes.~~
- (9) A common machine-readable technology, with defined minimum data ~~elements~~containing the data elements available on the face of a driver's license or identification card. A person's social security number may not be included in these data elements.
- (10) A unique symbol designated by the Secretary to indicate compliance with the requirements of this section.

(c) Minimum Issuance Standards.--

(1) In general.--To meet the requirements of this section, for all drivers' licenses and identification cards issued under this subtitle after January 1, 2013{20XX}, a State shall require, at a minimum, presentation and verification-validation of the following information before issuing a driver's license or identification card to a person:

(A) A photo identity document, except that a non- photo identity document is acceptable if it includes both the person's full legal name and date of birth.

(B) Documentation showing the person's date of birth.

(C) Proof of the person's social security account number or verification that the person is not eligible for a social security account number if the person has been issued a social security number.

(D) Documentation showing the person's name and address of principal residence.

(2) Special requirements.--

(A) In general.--To meet the requirements of this section, a State shall comply with the minimum standards of this paragraph.

(B) Evidence of lawful status.--A State shall require, before issuing a driver's license or identification card to a person, valid documentary evidence that the person--

(i) is a citizen or national of the United States;

(ii) has been granted is an alien lawfully admitted for lawful permanent residence, conditional permanent residence, or temporary residence in the United States;

~~(iii) has conditional permanent resident status in the United States;~~

(iii) has been paroled into the United States under section 1182(d)(5) of title 8, United States Code (subject to such exceptions as the Secretary may in his unreviewable discretion prescribe for aliens paroled into the United States for prosecution or other categories of paroled alien);

(iv) has an approved application for been granted asylum or, withholding of removal, or relief under the Convention Against Torture in the United States or has been admitted entered into the United States in as a refugee status;

(v) has a valid, unexpired lawful nonimmigrant visa or nonimmigrant visa status for entry into the United States;

(vi) has a pending application for asylum or withholding of removal and has been granted employment authorization in the United States;

(vii) has a pending or approved application for temporary protected status in the United States;

(viii) ~~has approved~~ has been granted deferred action status; or
(ix) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States; or
(x) is otherwise an alien lawfully present in the United States, as determined by the Secretary in his unreviewable discretion.

(C) Temporary drivers' licenses and identification cards.--

(i) In general.--If a person presents evidence under any of clauses (v) through (ix) of subparagraph (B), the State may only issue a temporary driver's license or temporary identification card to the person that is valid for a time period that is not longer than the expiration of the applicant's authorized stay in the United States, or if there is no expiration date for such authorized stay, for a period of up to one year.

~~(ii) Expiration date.--A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year.~~

~~(iii) Display of expiration date.--A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall clearly indicate that it is temporary and shall state the date on which it expires.~~

~~(iiiiv) Renewal.--A temporary driver's license or temporary identification card issued pursuant to this subparagraph may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the temporary driver's license or temporary identification card has been extended by the Secretary of Homeland Security.~~

(3) ~~Verification-Validation of documents.~~--To meet the requirements of this section, a State shall implement the following procedures:

(A) Before issuing a driver's license or identification card to a person, the State shall validate~~verify, with the issuing agency, the issuance, validity, and completeness of each document~~ required to be presented by the person under paragraph (1) or (2).

(B) The State shall not accept any foreign document, other than an official passport, to satisfy a requirement of paragraph (1) or (2).

(C) ~~Not later than September 11, 2005~~January 1, 2013~~[20XX]~~, the State shall enter into a memorandum of understanding with the ~~Secretary of Homeland Security~~ to routinely utilize the automated system known as Systematic Alien Verification for Entitlements, as provided for by section 404 of the Illegal Immigration Reform

and Immigrant Responsibility Act of 1996 (110 Stat. 3009-664), to verify the legal presence status of a person, other than a United States citizen or national, applying for a driver's license or identification card.

~~(f) Exceptions Process.~~

~~States shall establish an exceptions process for persons who, for reasons beyond their control, are unable to present the necessary documents listed in subsections (c)(1). Alternative documents accepted under the exceptions process may not be used to demonstrate lawful presence under subsection (c)(2) unless those documents establish that the person is a citizen or national of the United States.~~

(d) Other Requirements.--To meet the requirements of this section, a State shall adopt the following practices in the issuance of drivers' licenses and identification cards:

(1) Identity Source Documents. -

(A) Employ technology to capture digital images of identity source documents so that the images can be retained in electronic storage in a transferable format for a minimum of 10 years.; or

(B){2} Retain paper copies of source documents for a minimum of 7 years or images of source documents presented for a minimum of 10 years.

(23) Subject each person who submits an application applying for a driver's license or identification card to mandatory facial image capture.

(34) Establish an effective procedure to confirm or verify a renewing applicant's information.

(45) Take appropriate steps to confirm with the Social Security Administration a social security account number presented by a person using the full social security account number. In the event that a social security account number is already registered to or associated with another person to which any State has issued a driver's license or identification card, the State shall resolve the discrepancy and take appropriate action may use existing procedures to resolve non-matches.

(56) Take appropriate steps to confirm that a person submitting an application for a driver's license or identification card Refuse to issue a driver's license or identification card to a person holding a driver's license issued by another State without confirmation that the person is terminating or has terminated the any driver's license or identification card issued pursuant to this section to that person by another State.

(67) Take appropriate action to provide for Ensure the physical security of locations where drivers' licenses and identification cards are produced and the security of document materials and papers from which drivers' licenses and identification cards are produced.

(7) Establish appropriate administrative and physical safeguards to protect the security, confidentiality, and integrity of personally

identifiable information including biometric data collected and maintained at locations where drivers' licenses or identification documents are produced or stored, to include:

(A) procedures to prevent the unauthorized access to or use of personally identifiable information including biometric data;

(B) public notice of security and privacy policies, including the use, storage, access to, and sharing of personally identifiable information including biometric data;

(C) establishment of a process through which individuals may access, and amend, and correct as appropriate and as determined by the State, their own personally identifiable information including biometric data.

(8) Subject all persons authorized to manufacture or produce drivers' licenses and identification cards to appropriate security clearance requirements.

(9) Establish ~~fraudulent~~ document recognition training programs for appropriate employees engaged in the issuance of drivers' licenses and identification cards.

(10) Limit the period of validity of all driver's' licenses and identification cards that are not temporary to a period that does not exceed 8 years.

~~(11) In any case in which the State issues a driver's license or identification card that does not satisfy the requirements of this section, ensure that such license or identification card--~~

~~(A) clearly states on its face that it may not be accepted by any Federal agency for federal identification or any other official purpose; and~~

~~(B) uses a unique design or color indicator to alert Federal agency and other law enforcement personnel that it may not be accepted for any such purpose.~~

~~(12) Provide electronic access to all other States to information contained in the motor vehicle database of the State.~~

~~(13) Maintain a State motor vehicle database that contains, at a minimum--~~

~~(A) all data fields printed on drivers' licenses and identification cards issued by the State; and~~

~~(B) motor vehicle drivers' histories, including motor vehicle violations, suspensions, and points on licenses.~~

(e) Exceptions Process. -

(1) In general.--States shall establish an exceptions process to reasonably accommodate persons' sincerely held religious beliefs for meeting the requirements of subsections (b)(5), (c)(1)(c), (d)(1)(A), or (d)(2), and for persons who, for reasons beyond their control, are unable to present the necessary documents listed in subsections (c)(1). Alternative documents accepted under the exceptions process may not be used to demonstrate lawful presence under subsection (c)(2) unless

those documents establish that the person is a citizen or national of the United States.

(2) Annual report.-- States shall include an analysis of the use of exceptions made under this subsection, which shall not include any personally identifiable information, as a component of the certification required under subsection (a)(2).

(fe) Use of Federal Systems. -- To the extent a State uses the automated systems known as Systematic Alien Verification for Entitlements and Social Security On-Line Verification, or any other Federal electronic system, in connection with the issuance of drivers' licenses or identification cards in accordance with this title, States shall not be required to pay fees or other costs associated with such a system.

(g~~f~~) Rule of Construction. --Nothing in this section shall be construed to prohibit a state from issuing driver's licenses and identification cards that are not compliant with the requirements of this section.

SEC. 203. TRAFFICKING IN AUTHENTICATION FEATURES FOR USE IN FALSE IDENTIFICATION DOCUMENTS.

(a) Criminal Penalty.--Section 1028(a)(8) of title 18, United States Code, is amended by striking ``false authentication features'' and inserting ``false or actual authentication features''.

(b) Use of False Driver's License at Airports.--

(1) In general.--The Secretary shall enter, into the appropriate aviation security screening database, appropriate information regarding any person convicted of using a false driver's license at an airport (as such term is defined in section 40102 of title 49, United States Code).

(2) False defined.--In this subsection, the term ``false'' has the same meaning such term has under section 1028(d) of title 18, United States Code.

SEC. 204. USE OF DRIVERS' LICENSE OR IDENTIFICATION CARD DATA BY PRIVATE ENTITIES-

Chapter 123 of title 18, United States Code is amended as follows:

(a) In section 2722 by adding a subsection (c) to read as follows: ``(c) Machine readable components of driver's licenses or identification cards - Except for fraud prevention purposes or in support of Federal, State, or local laws, it shall be unlawful for any private entity to scan the information contained in the machine readable component of a drivers' license or identification card issued pursuant to this title, and:

"(1) resell, share or trade that information with any other third parties;

"(2) track the use of a drivers' license or identification card; or

"(3) store the information collected.

(b) in section 2724 by inserting "driver's license, or identification card," after "motor vehicle record".

(c) In section 2725 by striking "and" after paragraph (2), by striking the period after paragraph (3) and inserting a semicolon, and by adding at the end the following:

"(4) 'driver's license' means a motor vehicle operator's license, as defined in section 30301 of title 49, United States Code; and

"(5) 'identification card' means a personal identification card, as defined in section 1028(d) of title 18, United States Code, issued by a State."

SEC. 205204. GRANTS TO STATES.

(a) EstablishmentIn General.--There is established a State Driver's License Enhancement Grant program to --Secretary may make grants to a States to assist the States in improving the integrity and security of driver's licenses and identification cards issued conforming to the minimum standards set forth in this title and in accordance with this Section.

(1) Grant Distribution.--The Secretary shall distribute grants based on the number of driver's licenses and identification documents issued by each State as of January 1, 2008of the year in which the grant is awarded.

(2) Minimum Allocation.--Each State shall receive not less than .25 percent of the funds appropriated for grants under this section in each fiscal year.

(b) A State-to-State one driver, one license demonstration project. -- The Secretary, in coordination with the Secretary of Transportation, shall establish a State-to-State system one driver one license demonstration project.

(1) Purpose. The demonstration project under subsection (b) shall evaluate the feasibility of establishing an electronic system to verify that an applicant for a drivers' license is not currently licensed in another State.

(2) Requirements.--The demonstration project shall include a minimum of [XX] States and review--

(i) the costs affiliated with establishing and maintaining an electronic records system,

(ii) the security and privacy measures necessary to protect the integrity and physical security of driver's licenses, and

(iii) the appropriate governance structure to ensure effective management of the system, including preventing the unauthorized use of information in the system, and ensuring the security and confidentiality of personally identifiable information.

(3) Limitation.--Nothing in this section shall authorize the creation of a national database of driver's license information or allow states direct access to the motor vehicle database of another state.

(cb) Authorization of Appropriations.--There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 2015 such sums as may be necessary to carry out this title.

SEC. 206205. AUTHORITY.

(a) Participation of Secretary of Transportation and States.--All authority to issue regulations, set standards, and issue grants under this title shall be carried out by the Secretary, in consultation with the Secretary of Transportation and the States.

(b) Extensions of Deadlines.--The Secretary may grant to a State an extension of time to meet the requirements of section 202(a)(1) if the State provides adequate justification for noncompliance.

SEC. 207206. REPEAL.

Section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458) is repealed.

SEC. 208207. LIMITATION ON STATUTORY CONSTRUCTION.

Nothing in this title shall be construed to affect the authorities or responsibilities of the Secretary of Transportation or the States under chapter 303 of title 49, United States Code.

209208. REGULATORY COMPLIANCE

(a) Rulemaking.-- Not later than 1 year after the date of the enactment of this title, the Secretary, after providing notice and an opportunity for public comment, shall issue final regulations to implement this Acttitle.

(b) Content of Regulations- The regulations required by subsection (a)--

(1) shall include procedures and requirements to protect the privacy rights of individuals who apply for and hold driver's licenses and personal identification cards;

(2) shall include procedures to protect any personally identifiable information electronically transmitted;

(3) shall include procedures and requirements to protect the federal and state constitutional rights and civil liberties of individuals who apply for and hold driver's licenses and personal identification cards;

(4) shall provide individuals with procedural and substantive due process, including promulgating rules and rights of appeal, to challenge errors in data records contained within any databases created to implement this Act;

(5) may not require a single design or numbering system to which driver's licenses or personal identification cards issued by all States must conform; and

(6) shall not preempt state privacy laws that are more protective of personal privacy than the standards, or regulations promulgated to implement this Act.